

Introduced by Senator CoxFebruary 22, 2005

An act to add Section 7201 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 920, as introduced, Cox. Public contracts: retentions.

Existing law authorizes the Department of General Services, or any other department with authority to enter into contracts, to contract with suppliers for goods and services. Existing law provides that in a contract between the original contractor and a subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld may not exceed the percentage specified in the contract between the public entity and the original contractor.

This bill would, in a contract with the Department of Transportation, authorize an original contractor in a contract between the original contractor and any subcontractor thereunder to withhold retention when making payments to the subcontractor for work performed, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7201 is added to the Public Contract
- 2 Code, to read:
- 3 7201. (a) Notwithstanding any other law, in a contract with
- 4 the Department of Transportation, an original contractor in a
- 5 contract between the original contractor and any subcontractor

1 thereunder is permitted to withhold retention when making
2 payments to the subcontractor for work performed. The
3 percentage of the retention proceeds withheld may not exceed the
4 percentage specified in the contract between the original
5 contractor and the subcontractor and may only be withheld if the
6 original contractor provides written notice to any subcontractor,
7 prior to or at the time that the bid is requested, that a bond may
8 be required and the subcontractor subsequently is unable or
9 refuses to furnish a bond to the original contractor.

10 (b) In accordance with applicable state law, the original
11 contractor shall permit any subcontractor to substitute securities
12 in lieu of the withholding of retention from progress payments
13 allowed under this section. Substitutions shall be made in
14 accordance with Section 22300.

15 (c) This section shall apply to contracts entered into on or after
16 January 1, 2006.